



Overview of the Regulatory Process

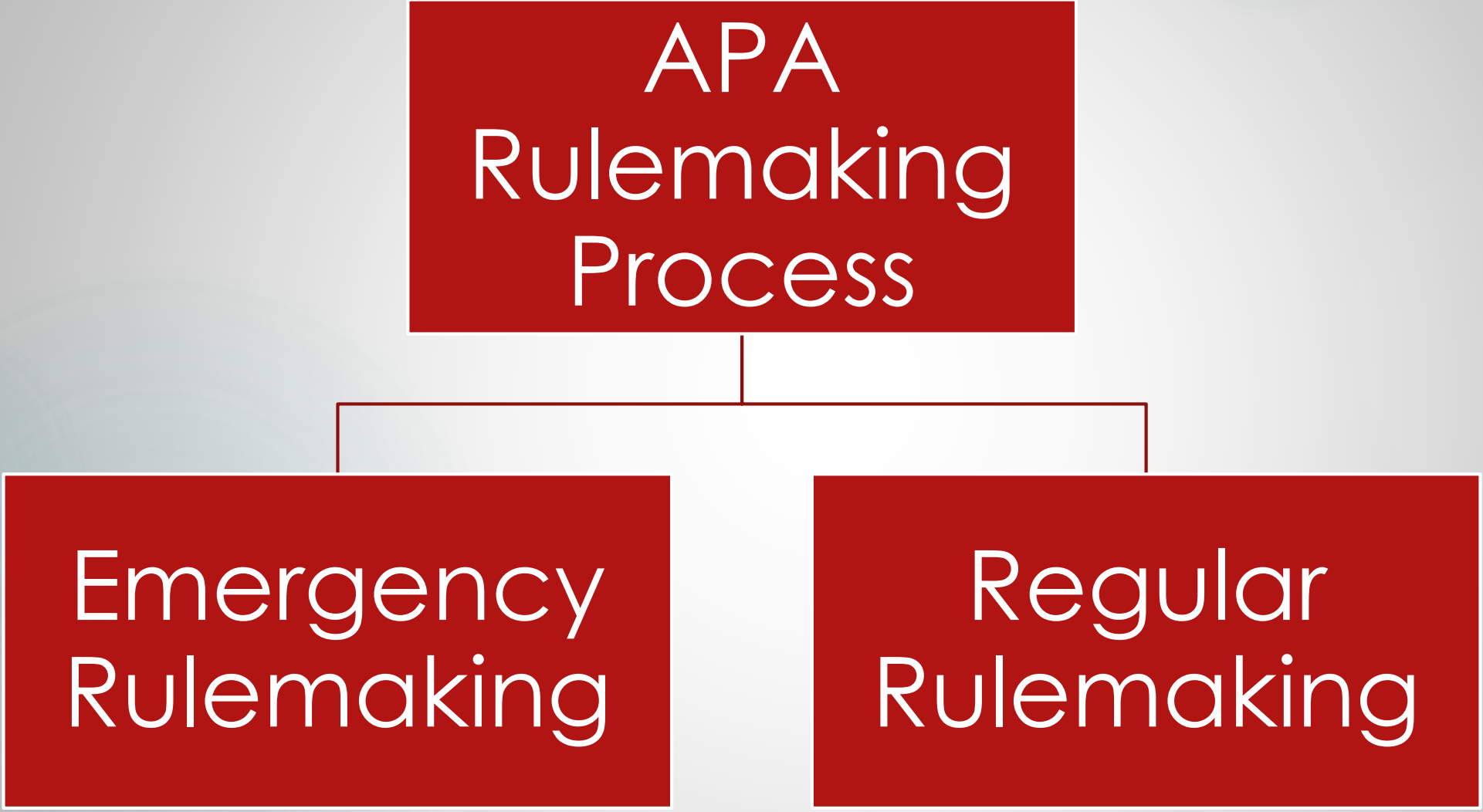
What are Regulations?

- ▶ Government Code section 11342.600 defines a regulation as:
 - ▶ Every rule, regulation, order, or standard of general application or the amendment, supplement, or revision of any rule, regulation, order, or standard adopted by any state agency to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure.
- ▶ **A REGULATION = A FORMALLY ADOPTED RULE**
- ▶ Regulations provide the details for implementing a statute such as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA)

Adopting Regulations in California

- ▶ In California, there is a formal process for adopting regulations, referred to as the rulemaking process.
- ▶ This rulemaking process is contained in the Administrative Procedures Act (APA). All proposed regulations must be submitted to the Office of Administrative Law (OAL) for review.
- ▶ What does the APA accomplish?
 - ▶ Legally valid, clear regulations, based in necessity.
 - ▶ Meaningful public participation in state agency rulemaking.
 - ▶ Public access to all regulations issued or used by state agencies.

APA Rulemaking Process



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graph TD; A[APA Rulemaking Process] --> B[Emergency Rulemaking]; A --> C[Regular Rulemaking];
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A hierarchical diagram showing the APA Rulemaking Process. The top box, 'APA Rulemaking Process', is connected by a vertical line to a horizontal line, which then branches into two separate boxes: 'Emergency Rulemaking' on the left and 'Regular Rulemaking' on the right. All boxes are red with white text.

Emergency
Rulemaking

Regular
Rulemaking

Emergency Rulemaking Process

- ▶ The emergency rulemaking process is used when there is need for an expedited action and is a shorter process than regular rulemaking.
- ▶ The Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA) deems regulations to implement it an emergency.
- ▶ Because MAUCRSA just went into effect a few months ago, the emergency rulemaking process will be used so that the state can meet its statutory mandate to begin issuing licenses by January 1, 2018.

Emergency Rulemaking Timeline



Emergency Rulemaking Action

- ▶ Notice provided by mail or email to all persons requesting notice of rulemaking actions and posted on agency taking action's website.
- ▶ Notice provides information such as where to send comments and contact person at agency for the rulemaking action.
- ▶ Finding of Emergency explains what action is being proposed.
- ▶ Proposed Text of regulations contains the actual language of the rule.

Public Comments

- ▶ Comments must:
 - ▶ Be in writing;
 - ▶ Must state that it is about an emergency rulemaking action currently under OAL review and include the topic of the emergency;
 - ▶ Must be submitted to OAL and the state agency taking the emergency action; and
 - ▶ Must be received within the 5 calendar day comment period.
- ▶ COMMENTS RECEIVED BEFORE THE FORMAL 5 DAY PUBLIC COMMENT PERIOD BEGINS OR AFTER THE 5 CALENDAR DAY PUBLIC COMMENT PERIOD ARE NOT CONSIDERED A COMMENT RECEIVED IN THE RULEMAKING PROCESS

OAL Review

- ▶ OAL's review of the emergency regulations includes:
 - ▶ Whether the regulations meet the definition of an “emergency.”
 - ▶ Whether proper notice has been provided as required.
 - ▶ Review of the public comments and responses if the agency submits a response to comments.
 - ▶ Review of the proposed regulatory text for:
 - ▶ Clarity
 - ▶ Necessity
 - ▶ Authority
 - ▶ Reference
 - ▶ Non-duplication

OAL Approval

- ▶ Emergency regulations are effective upon filing with the Secretary of State, or on a specified date.
- ▶ Emergency regulations under MAUCRSA are effective for 180 days, and may be re-adopted for another 180 days.
- ▶ After the end of 360 days, the emergency regulations are no longer valid.

Regular Rulemaking

After Emergency Rulemaking

- ▶ The regular rulemaking process will follow emergency rulemaking. In the APA this is referred to as the Certificate of Compliance.
- ▶ This rulemaking process allows for greater public participation, and includes:
 - ▶ A 45 day public comment period;
 - ▶ The opportunity for a public hearing, such as those held for the proposed Medical Regulation and Safety Act this past spring;
 - ▶ Additional public comment periods if changes are made to the proposed regulations after the initial public comment period; n
 - ▶ A requirement that the agency respond to public comments